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Supreme Court, U. S.
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MICHAEL RODAK, JR., CLERK

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1973

No. 73-1154

GERALD P. WOLF
Petitioner, Plaintiff

vs.

TERRI L. WOLF
Respondent, Defendant

PETITION FOR REHEARING UNDER RULE 58 OF
ORDER OF MARCH 4, 1974 DENYING
CERTIORARI TO THE
SUPREME COURT OF OHIO

Gerald P. Wolf, pro se
246 Woodcroft Trail
Dayton, Ohio 45430

SUMMARY

This is a petition for a rehearing, under The U. S. Supreme Court's Rule 58, of the denial of certiorari to The Supreme Court of Ohio by this Court in its Order of March 4, 1974, in the cause Wolf vs. Wolf, a case involving invidious sex discrimination by Ohio Trial Courts and denial of due process in a child custody matter.

The new elements that the petitioner presents are:

1. Ohio became the 33rd state to ratify the 26th Amendment to the U. S. Constitution providing for equality of the sexes, on January 31, 1974.

2. Several recent federal and state judicial decisions holding that state laws and practices discriminating by sex are unconstitutional, and that sex is an inherently suspect classification.

OPINION TO BE REVIEWED

On March 4, 1974, this court denied petitioner Gerald P. Wolf's timely petition for the Writ of Certiorari to The Supreme Court of Ohio, which filed the dismissal of the petitioner's appeal in the lower court on October 3, 1973.

JURISDICTIONAL GROUND

This Court's Order denying certiorari was dated March 4, 1974, and received in the mail by the petitioner on March 6, 1974.

NEW MATTERS

1. On January 31, 1974, in accordance with the provisions of the Constitution of The United States for an Amendment of the Constitution, and in accordance with state law, The Legislature of Ohio Ratified the 26th Amendment to the United States Constitution, becoming the 33rd state to do so and demonstrating that the people of Ohio, through their Legislature, desire to eliminate any discrimination by sex in the courts and laws of Ohio.

   Since custody of the petitioner's child was awarded to the mother by judgement of The Common Pleas Court of Greene County, Ohio on the arbitrary basis of sex, making the oral finding that "with regard to the custody of the child, it is obvious the custody of the two-year old is better with the Mother than with the Father, everything else being equal." (Emphasis added), just before the Legislature of Ohio ratified the

Equal Rights Amendment, and The Fourteenth Amendment provides in Section 1, for "equal protection of the law," invidious discrimination by sex is no longer tolerated by the people of Ohio.

2. In the preparation of the original pro se petition for certiorari, the petitioner inadvertently failed to include the following recent decisions of the U. S. Courts of Appeals and District Courts, various state supreme court decisions and authorities supporting his position:

CASES

Federal

Brenden v. Ind. School Dist. 477 F. 2d 1292 - Female athletic equality

Monell v. Dept. of Social Service of City of NY 357 F. Supp. 1051 (S.D.N.Y. 1972) - Sex is an inherently suspect classification

U. S. Ex Rel Robinson v. York 281 F. Supp. 8 (D. Conn. 1968) - Length of Sentence.

State

Corso v. Corso, Allegheney Co. (Pa.) Legal Register, No. 612 July Term, 1970, 120 Pitt. L. J. 183 (1972) - State separation law discriminating between sexes unconstitutional

In re Opinion of the Justices 22 N. E. 2d 49, 303 Mass. 631, 123 ALR 199 - Divorce statute contemplates inequality of status between man and wife that is no longer justified

Kehl v. Kehl, Allegheney Co. (Pa.) Legal Register, No. 741 Oct Term, 1971, 120 Pitt L. J. 297 (1972) - Petition for Alimony Pendante Lite unconstitutional, discriminates against men

Lukens v. Lukens, 303 A. 2d 522 (Pa. Super., 1973) - State statutes providing for discriminatory legal advantages for women are unconstitutional

Sail'er Inn, Inc. v. Kirby 485 P. 2d 529 (Cal., 1971) - Right to be a bartender.

AUTHORITIES

A Constitutional Basis for Equal Rights for Women, 80 Yale Law Rev. 871 (Apr. 1971)

The Double Standard of Justice: Women's Rights under the Constitution, 5 Valparaiso Law Rev. 281 (1971)

Equal Protection (Note) 84 Harvard L. Rev. 1509

CONCLUSION

Since the 26th, or "Equal Rights" Amendment is about to become the law of the land, and the State of Ohio has shown its desire to eliminate invidious sex discrimin-

ation by ratification of this Amendment, this Court should grant certiorari, and remand the cause to the Supreme Court of Ohio for reconsideration in accordance with the will of the people of Ohio as expressed in the proposed Equal Rights Amendment and the Constitutions of the United States and Ohio.

Respectfully submitted,

Gerald P. Wolf, pro se